

MOTION BY SUPERVISORS GLORIA MOLINA AND
ZEV YAROSLAVSKY

December 14, 2010

AMENDMENT TO ITEM #54

In response to a September 7, 2010 adopted Board motion, the Chief Executive Office (CEO) issued a report on the feasibility of creating a countywide model similar to the Sheriff's Equity Oversight Panel (EOP), an independent body of attorneys and experts in the area of employment investigations. In summary, the CEO concluded that the Sheriff's EOP model would greatly strengthen the County's current employment discrimination process and identified a number of process improvements to the Office of Affirmative Action and Compliance (OAAC). Specifically, the EOP approach includes analysis of case patterns and trends, identifies preventative measures such as targeted training, and ensures consistent discipline. This approach is consistent with the County's ongoing efforts to reduce legal exposure.

I, THEREFORE, MOVE that the Board of Supervisors 1) Adopt the CEO's recommendation from its November 4, 2010 report to implement a **"Hybrid Plus Approach"** option that includes an independent four-member panel; 2) Implementation

MOTION

Molina _____

Ridley-Thomas _____

Yaroslavsky _____

Knabe _____

Antonovich _____

of this option should include a skill assessment of current OAAC investigators and training in the EOP investigative approach; and 3) Direct the CEO to report back within three weeks with a cost neutral implementation plan.

Enclosure

AU/ld



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

November 4, 2010

To: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

FEASIBILITY OF CREATING A COUNTYWIDE MODEL SIMILAR TO THE SHERIFF'S EQUITY OVERSIGHT PANEL AND WAYS TO IMPROVE THE COUNTY'S OVERALL EMPLOYMENT DISCRIMINATION COMPLAINT PROCESS (ITEM 30, AGENDA OF SEPTEMBER 7, 2010)

On September 7, 2010, your Board instructed the Chief Executive Office (CEO), in conjunction with the Department of Human Resources (DHR) and the Office of Affirmative Action Compliance (OAAC), to report back in 30 days on the feasibility of creating a model similar to, but not necessarily identical to, the Sheriff's Equity Oversight Panel (EOP). The EOP is an independent body of employment attorneys and/or experts in the area of employment investigations responsible for the review and monitoring of the Sheriff Department's employment discrimination and harassment complaint process from intake through the investigations phase and EOP hearing. The report was to include a review of current procedures, practices and policies, and recommended changes to improve the County's overall employment discrimination complaint process.

The CEO, DHR and OAAC met twice with staff from the EOP, including the Sheriff's Internal Affairs Bureau, which does the actual investigations, and attended an EOP meeting to discuss policies, practices and procedures with the EOP members. CEO staff also met twice with OAAC staff to discuss OAAC policies, practices and procedures regarding their discrimination complaint investigation process. There were both similarities and some significant differences between the two operations, as discussed below. There are four attachments to this report: attachment 1 shows the comparison of timeframes between the EOP and the OAAC, attachment 2 provides the cost of the EOP function and attachments 3 and 4 are binders with detailed descriptions of the EOP and OAAC programs, including information on policies, procedures and practices.

Key Findings

Equity Oversight Panel Model – The EOP is one component of an Equity Process that was implemented in the Sheriff Department in 2003, as a result of the Bouman v. Baca litigation. That Equity Process included:

- Creation of a new harassment/discrimination and retaliation policy entitled the "Policy of Equality" (POE);

"To Enrich Lives Through Effective And Caring Service"

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- Development and implementation of an eight-hour training program on the POE for all department members;
- Creation of a centralized Intake Unit through which all complaints under the POE are processed and triaged by a team of equity experts for appropriate classification and handling;
- Establishment of an Equity Investigations Unit staffed with sergeant level investigators who have received special training in investigating employment complaints; and
- Establishment of an EOP Panel that oversees the Equity Process from intake through the conclusion of the investigation and the EOP hearing.

Utilization of the Equity Process and the EOP Panel has proven to be a very successful approach for the Sheriff's Department in effectively handling equity based complaints and in bringing about a change in the culture at the Sheriff's Department. Since 2003, the Department's Equity Process and EOP Panel have become a part of the infrastructure of the Department. The extraordinary caliber of EOP Panel members has resulted in Department members having a great deal of confidence in the EOP Panel's disciplinary recommendation. Confidence in the process and in those persons staffing the process is critical to a successful equity investigation model.

The EOP takes a comprehensive and continuous improvement process approach to handling discrimination complaints. In addition to acting as a resource and reviewer of decisions made at the intake assessment and Equity Unit Investigation level, the EOP also:

- Recommends specific discipline actions, training and victim counseling;
- Analyzes case patterns and trends;
- Works with the management of problem divisions to address and solve problems;
- Identifies preventative measures through recommended best practices and lessons learned; and
- Follows up with quarterly reports to verify that discipline and best practices were implemented.

The EOP and the Equity Process in its totality enjoy the buy-in and support of the Sheriff and his executive team, who have made the Department's "Policy of Equality" an ingrained part of the Sheriff's Department culture. The strong institutional support from the Sheriff down has significantly changed the culture in the department. For example, as mentioned above, all Sheriff Department employees were required to attend a mandatory eight-hour training course, including an exam, on the Policy of Equity.

Implementation and utilization of the Equity Process and the EOP Panel have resulted in the number of discrimination complaints dropping from 477 cases filed in 2003 to 287 cases filed in 2009, with 2010 projected to be even lower. The number of claims varied from four in 2003-04 to 12 in 2005-06 to seven in 2008-09. The cost of claims paid also varied over that period, from \$.128 million in 2003-04 to \$1.263 million in 2005-06 to \$1.543 million in 2008-09. It should be noted, however, that the claims accounting system simply shows all claims related costs paid in any year, regardless of which year the claims were actually filed. The EOP process clearly reduced the number of complaints since 2003.

OAAC-Related Changes During the Past Ten Years – Over the past ten years, there have been several countywide Board policies adopted, and OAAC initiatives implemented, to address employment discrimination in the workplace. Your Board has:

- Mandated that all employees receive both Sexual Harassment Prevention and Employment Discrimination Prevention training every two years;
- Required that all employees review the County's Policy on Sexual Harassment and sign an acknowledgement statement to that effect; and
- Approved the OAAC's established Employment Discrimination Complaint Process.

To meet these obligations, the OAAC has developed training curriculum and directives. OAAC has also worked to transition employment discrimination investigations from a de-centralized monitoring model to a centralized model, where OAAC has the responsibility to conduct investigations. Incorporating the successful approaches of the EOP will further enhance existing employment discrimination prevention efforts.

Consistency of Discipline Applied - One major difference between the two operations is that the EOP recommends the disciplinary and other actions that the Sheriff's Department should take when a POE violation is founded. Further, the EOP makes sure that the discipline they recommend is in accordance with the Sheriff's Department discipline guidelines and in alignment with past similar cases. Additionally, the EOP process respects the Sheriff's Department right to make a final decision on discipline. However, should a manager make a modification to the EOP recommended discipline, a written justification must be provided to the EOP outlining the reasons for any modification.

OAAC, on the other hand, provides the results of their investigation to the originating department. The originating department determines the discipline in accordance with their discipline guidelines, as applicable. While the originating department may consult with OAAC, DHR or County Counsel on the appropriate level of discipline, this type of consultation is not required. The potential outcome is that different levels of discipline could be applied in different County departments for incidents with similar circumstances. This inconsistency could weaken the County's position in cases that involve litigation or on appeal to the Civil Service Commission. Because every department tracks their own discipline, manual reviews of discipline imposed would be very time consuming.

In March 2009, OAAC began using a new computer system called the Investigation Tracking Management System (ITMS), which has the capability of tracking discipline related to all OAAC cases found to be substantiated. This new system provides an excellent opportunity to gather disciplinary data from departments so that future disciplinary actions can be compared to past actions for consistency. On a related note, DHR has identified the need for a countywide system which could be used by all departments to track all types of discipline (not just discrimination-related cases). DHR has reviewed systems developed in-house by several departments which could potentially be rolled out countywide. OAAC should work closely with DHR to ensure that any DHR countywide system which is developed is linked and/or data pulled from the OAAC discrimination complaint tracking system.

One key area for improvement would be to implement an EOP panel that evaluates the cases and, if substantiated, recommends the discipline and/or administrative action necessary (such

as additional training, etc.). Department heads would have to provide written justification to the panel for modifying the recommended discipline. A second improvement would be to require all departments to submit disciplinary information to OAAC so that OAAC could track it.

Trend Analysis and Communication of Lessons Learned/Best Practices – One of the key benefits of the EOP approach to their case review is that they do quarterly reports which identify areas for improvement. If they see a pattern of cases or a particular trend developing, they reach out to the management of the affected division to discuss their findings and to determine what steps need to be taken to address and resolve the problem. The EOP also takes a broad view when making recommendations. For example, along with disciplinary actions, they may recommend different types of employee training, disciplinary counseling (if the case is not upheld but the employee's behavior was questionable), victim counseling, supervisory training, etc. Attachment 3 - Tab 7 lists EOP lessons learned and best practices; most of which are applicable to all County departments.

Consistent with the EOP's approach and the County's ongoing efforts to reduce legal exposure, the OAAC will implement new initiatives to assist the County in taking proactive steps to prevent problems identified in discrimination complaints. OAAC has indicated that they will immediately revise their processes to include information on the following topics as part in their quarterly reports sent to the Board and all departments:

- lessons learned
- best practices
- complaint trend analysis
- pattern and practice issues and
- changes in employment discrimination law

OAAC will also continue to share information through meetings with department heads, chief deputies, administrative deputies, human resources managers and risk managers. In addition, OAAC will look for innovative ways to communicate best practices, such as the Sheriff's Department use of "pop up" policy messages requiring acknowledgement when computers are turned on each day (Attachment 3 – Tab 8).

OAAC lists recent and new initiatives in a section of the Attachment 4 summary document called, "Overview of Efforts to Address Employment Discrimination." Some of these changes include:

- Notifying the Complaining Party in writing should the investigation extend beyond the stated time frame.
- Distributing an informational brochure regarding the voluntary Dispute Resolution Mediation program as an attachment to "Acknowledgement of Complaint" letters.
- Implementing a triage procedure to identify cases that pose a high risk to the County and which will be given priority status.
- Conducting investigations simultaneously with all cases electing dispute resolution.
- Digitally recording all complaining party, subject of investigation and witness interviews, and transcribing as necessary.

- Use of OAAC's new computer system to do:
 - Case trend analysis to identify problem areas for focus;
 - Provide management reports tied to workload and timeliness; and
 - Electronic workflow, templates and on-line review and approvals.

Comparison of Caseload Statistics - The following table provides statistics comparing the caseload and timeliness of the EOP and OAAC. *Please note that performance measurements differ between the two agencies, so we have provided the data that matches most closely.*

Fiscal Year 2009-10	Sheriff/EOP	OAAC
# of Cases Submitted	690	1,096
# of Cases Referred Back to Originating Dept/Unit as Non-Jurisdictional	463 (67%)	476 (43%)
# of Cases Requiring Initial Investigation (Jurisdictional)	227	n/a
# of Cases Referred Back to Originating Unit after Initial Investigation Done	161 (23%)	n/a
# of In-Depth Investigations Done*	66 (10%)	620 (57%)
# of Cases Closed**	62	436
# of Cases Substantiated	54	75
% of Cases Closed Which Were Substantiated	82%	17%
% of Cases Substantiated Compared to Total Number of Jurisdictional Cases	24%	17%
% of Cases Investigated within 120 Days	68%	72%
% of Cases Investigated within 168 Days	n/a	19%
% of Cases Investigated within 200 Days	32%	n/a
% of Cases Investigated over 252 Days	n/a	9%
# of Investigators	5	27
# of Cases Per Investigator***	13	23
# of Cases Monitored at Other Departments***	n/a	105

Note: OAAC uses business days, which were converted to calendar days for this chart.

- * Case investigations may span fiscal years, so cases investigated and closed will not total.
- ** Cases closed for EOP means investigation, hearing held and findings made by EOP panel. Cases closed for OAAC means mediation (if elected), investigation, and final OAAC report findings.
- *** It should be noted that, in addition to handling cases, the OAAC investigators also monitor the status of an average of four discrimination complaint investigations by other County departments who handle their own investigations.

Case Designation and Investigation Differences - The Sheriff Intake Unit staff designate complaints as either jurisdictional to the Sheriff's POE or not jurisdictional to the POE. The OAAC Intake Unit staff then assign an "A, B or C" case designation to the jurisdictional cases.

- An "A" case has sufficient facts that support a probable violation of the POE. These cases are immediately referred to the Equity Investigation Unit for a thorough investigation by Internal Affairs Bureau (IAB).
- A "B" case is a case which involves an equity issue related to a protected category, but the alleged conduct does not rise to the level of an IAB investigation or does not warrant at least a written reprimand.
- A "C" case is a case where the alleged conduct does not show a causal connection to a protected category.
- Cases designated "B" or "C" require an initial investigation by the Intake Specialist Unit (OAAC staff) to determine if these cases have sufficient facts to warrant a full investigation similar to an "A" case. The initial investigations are done in 15 days. After the initial Intake Specialist Unit investigation is done, if sufficient facts are found, the case is reclassified to an "A" and referred to the Equity Unit. If the "B" and "C" cases have insufficient facts, they are referred back to the appropriate Unit Commander for follow-up action and resolution, such as training, rebriefing on POE and non-POE related policies, informal conflict resolution or OAAC mediation.

OAAC designates cases as Class 1 (jurisdictional) or Class 2 (non-jurisdictional). All Class 1 (jurisdictional) cases are referred for full investigation by OAAC staff. The majority of cases investigated, but not substantiated, by the OAAC are similar in nature to the Sheriff's "B" and "C" designated cases. These cases are referred back to the line department for further review and resolution of non-jurisdictional issues.

Cases Substantiated – As noted above, EOP and OAAC use very different approaches when deciding which cases to investigate fully. This difference is reflected in the statistics related to "Cases Substantiated."

- For 2009-10, EOP did in-depth investigations on all of the "A" cases (about 10% of the total cases submitted) and substantiated 82% of those "A" cases. Looked at another way, substantiated cases were 24% of the total POE jurisdictional cases which the EOP handled.
- For 2009-10, OAAC did in-depth investigations on 57% of the cases submitted (the equivalent of all "A, B and C" cases) and substantiated 17% of the cases investigated.

The case designation process used by the EOP results in only the strongest cases with the best evidence being referred for in-depth investigation. The process used by OAAC refers all jurisdictional cases for in-depth investigation, regardless of the amount or quality of evidence.

The Sheriff Department's Equity Process Intake Unit (staffed by both OAAC and Sheriff employees) refers only the complaints supported by sufficient evidence for investigation. The sworn Intake Unit staff determine whether each complaint is POE-related or not. (If not, the complaint is referred back to the originating unit.) The OAAC Intake Unit staff then analyze the POE-related complaints to classify/prioritize them as "A, B or C" and allow for an initial 15-day investigation period to determine the quality of the evidence. Cases classified as "A" are

referred to the Equity Investigation Unit for a complete investigation. Cases classified as "B or C" are referred back to the originating unit. Every decision made by the Intake Unit staff is also reviewed by an EOP panel member. Agreement is reached between the EOP member and the Intake Unit staff regarding the manner in which the complaint will be handled. The EOP intake process helps ensure that investigation resources are used as efficiently as possible, so that time is not spent on complaints that do not have sufficient evidence or turn out not to be jurisdictional to the EOP.

The OAAC intake process follows a different model. The OAAC Deputy Compliance Officers (DCO) in the OAAC Shared Services section handle both intake and investigation, rather than specializing in one area or the other. OAAC staff also investigate all cases deemed to be jurisdictional (the equivalent of "A, B and C" cases). There have been instances where the core issues of the investigation turned out to be employee relations issue rather than discrimination issues. Those complaints should have been returned to the originating department rather than having an OAAC investigation. OAAC plans to reorganize the Shared Services section to create a specialized Intake Unit, whose staff will spend more time on the upfront analysis of the complaints filed to prioritize the most egregious cases and to improve the accuracy in determining whether a case should go to an OAAC investigator or be returned to the originating department as non-jurisdictional. By doing a more thorough analysis of complaints at the intake stage, we anticipate that the OAAC ratio of complaints investigated to complaints substantiated will improve. More time spent on upfront analysis will maximize the efficiency of existing OAAC investigative resources, which should also result in more timely investigations.

OAAC plans to mirror the Sheriff Department's EOP Intake process and the "A, B, C" classification model, which were developed as part of the Department's Equity Process. OAAC intake staff, which support the EOP, should train their counterparts in the reorganized OAAC unit on how to implement the revised intake process for complaints filed by other County departments. The Sheriff's Internal Affairs investigators may have investigative techniques that OAAC investigators could successfully use. Training provided by the EOP outside attorneys and the Internal Affairs investigators would benefit the OAAC investigators. It may also be possible for OAAC investigators to "shadow" the Internal Affairs staff. Another key factor to improve the outcomes of OAAC investigations will be for OAAC investigators to have access to the new panel to seek guidance, as needed, during the investigations. This approach has been part of the EOP's successful process.

OAAC and DHR should work together to improve the quality of departments' documentation of discipline and complaints, as well as a continued emphasis on employee and supervisor training and departmental culture. Trend analysis will be an important tool to identify and focus on departmental problem areas.

Average Time to Handle Cases from Start to Finish – Attachment 1 provides a side by side comparison of the steps and timeframes for OAAC and EOP.

OAAC indicates that the average time to handle cases is 154 (calendar) days. The 154 day period includes intake, investigation, report writing and OAAC management approval. However, cases that elect to use the OAAC's Dispute Resolution Mediation Program used to require an additional 10 days for election and 30 days for convening the mediation session. OAAC has

now revised their process to begin the investigation concurrently with the dispute resolution mediation process.

EOP staff indicate that the average time to handle Sheriff's Department discrimination investigation cases is approximately 95 (calendar) days. The 95 day period runs from the date of Department notification of the complaint, including the initial intake process, investigation and report writing, through the EOP hearing and decision.

The significant differences between the two operations are that:

- The OAAC process has been designed to follow the Federal Equal Employment Opportunity Commission (EEOC) and California State Department of Fair Employment and Housing (DFEH) model, which includes a dispute resolution process (referred to by both EEOC and DFEH as "mediation"). After the investigation and report are done, the OAAC sends the report electronically to the originating department. That department is given three to five business days to review the report and discuss it with OAAC. The originating department then has ten days to respond with a corrective action plan.
- The EOP process does not include dispute resolution (mediation), but does include time for the EOP hearing and recommendations on discipline, which Department management is generally expected to follow.
- Another significant factor is the caseload per investigator. An analysis of annual case intake and investigation numbers for both the Sheriff and OAAC indicates that in 2009-10:
 - The EOP Intake Specialist Unit investigators each did an average of 76 initial investigations to determine A, B or C status.
 - The five EOP investigators each handled an average of 13 cases per year.
 - The 27 OAAC investigators each did their own intake analysis and handled an average of 23 cases per year, plus monitored four more cases at departments which handle their own investigations.

Total Caseload and Number of Cases Per Investigator – One of the major differences we noted between EOP and OAAC was the difference in caseload handled by the investigators for the two organizations. The OAAC investigators handle 75% more cases than the Sheriff investigators.

Over the past several years, the EOP carefully monitored the average number of cases handled per investigator. One of the "red flags" was a significant increase in the average time it took to complete investigations. In that situation, the EOP would identify the need for the Sheriff to assign more investigators. This became an action item which the EOP followed up on until an appropriate number of investigators were assigned and the time to investigate cases was brought down to be within the goal range.

As an example, for the April-June 2007 quarter, the EOP caseload had increased to 22 cases. At that time, the EOP had three full-time sergeants and one full-time deputy assigned to conduct investigations. In addition, there were four sergeants who had been trained and were available to conduct equity investigations. However, they had previously been assigned to non-equity IAB investigations (because the EOP caseload dropped to 12 cases). At the point when the EOP caseload got back up to 22 cases, the EOP recommended "...that the Department

consider restoring some or all of those sergeants to equity cases to ensure that the caseload remains manageable and investigative times continue to decrease." In the July-September 2007 report, the EOP noted that the number of full time investigators had been increased to seven and an eighth investigator was being trained. The ability to ramp up and ramp down the number of investigators to match caseload, as well as the previously discussed approach of doing in-depth investigations of only the "A" designated cases, are both clearly important components to the EOP's caseload management and timeliness.

Dispute Resolution (Mediation) Process - The OAAC dispute resolution process is offered to the complaining party and the department as an opportunity to communicate the complaining party's concerns and attempt to resolve those concerns, if possible, through immediate action. The dispute resolution process has been a successful tool for the OAAC. During 2009-10, 25% or 152 of the cases to be investigated went to dispute resolution. Of those, 101 dispute resolutions (16% of the total cases to be investigated and 66% of the cases mediated) were resolved with a binding no-fault settlement agreement. OAAC states that over the past two fiscal years (2008-09 and 2009-10), 95 complaints resolved through the mediation process were deemed "high risk cases," resulting in an estimated savings to the County of up to \$14.1 million in potential litigation costs.

It should be noted that even with approval of binding no-fault settlement agreements, OAAC is still required to investigate the cases to determine the circumstances. In future, OAAC will enhance the investigative reports to recommend what should be done to prevent similar incidents.

Like the federal model, the OAAC discrimination complaint investigation did not commence until after the dispute resolution ("mediation") was completed or turned down. OAAC has now revised their process to begin the investigation concurrently with the dispute resolution process.

OAAC Computer System - Approximately 18 months ago the new ITMS case tracking system developed by ISD and OAAC was brought online and is now being used by OAAC staff. All cases are now handled electronically in the system through use of templates, workflow processing, online review and approvals, and standard and customized reports regarding case status and workload.

One type of report produced by the new system is trend analysis. The system now has over one year of data, which creates a baseline for the trend analysis. This tool will enable OAAC staff to quickly identify trends by department, type of incident, time frame, etc. The group in OAAC which has been designated to handle high risk cases and risk management analysis will also be responsible for doing the trend analysis and developing mechanisms for communicating lessons learned to County departments and the Board of Supervisors.

In addition, Attachment 4 – Tab 6 provides information about OAAC's new computer system, such as the type of information tracked in the system and the types of reports available for OAAC investigators, supervisors and management.

EOP Cost

The cost for the Sheriff's EOP operation is approximately \$4.1 million per year. This cost includes 19 Sheriff and three OAAC staff, three EOP panel members plus the chairperson. Supplies and overhead costs such as computer system support would be in addition. EOP Panel members get paid \$200 per hour; each member's hours are capped at 500 hours per year (for a maximum of \$100,000 each per year). The EOP chairperson is paid \$200 per hour and is capped at 750 hours per year (for a maximum of \$150,000 per year). For 2009-10, the EOP panel contracts cost a total of about \$351,000. Attachment 2 summarizes the various EOP direct costs and staffing.

Options

1. EOP "Equivalent" – Option 1 would be to implement a centralized EOP Panel over OAAC investigations. The new EOP Panel would be composed of four outside employment law attorneys (one as chair) or other employment type experts. OAAC had 60% more cases filed than the Sheriff did. Therefore, we increased the outside attorney panel time by approximately the same percentage. Assuming 750 hours per year for each panel member plus 1,000 hours for the chairperson, the panel would cost \$650,000. The EOP Panel would report to the Board of Supervisors. One full time position in OAAC would be needed to provide staff support (trend analysis, drafting panel reports, etc.) to the new EOP panel, at an estimated cost of \$76,000 per year. Also, additional investigators would need to be hired in OAAC to bring the caseload per investigator down roughly equivalent to same level as Sheriff. If the OAAC investigative caseload were to continue at the current level, OAAC would need approximately 25 more investigative positions plus support staff at a cost of about \$3.5 million. The total EOP "Equivalent" Option is therefore estimated to cost an additional \$4.25 million per year.
2. Hybrid Approach – Option 2 would be to incorporate the "best of the equity process" implemented at the Sheriff Department including the EOP approach (centralized Intake Unit, new EOP to act as a resource for Intake Unit staff and for the investigator staff, disciplinary recommendations, consistency, best practices/lessons learned, trend analysis, more timely investigations). The new panel would be composed of executive or senior management level staff from DHR Civil Service Advocacy group and County Counsel, with OAAC acting in an advisory/support role. Intake and investigations would continue to be handled by existing OAAC staff, including an internal reorganization to create a specialized intake unit. Both intake and investigative staff would have direct access to the new EOP Panel as a resource. Cases, investigation status, caseload, and disciplinary actions would be tracked using the OAAC computer system. The new system would also be used to identify patterns of cases and do trend analysis. This option would require an estimated \$357,000 per year in additional staff resources.
 - a. OAAC – one new staff position to do trend analysis, draft quarterly reports, and provide other types of research and support for the new panel (estimated annual cost \$76,000)

- b. County Counsel - one new attorney position to work with the centralized Intake Unit to review intake assessments and "A,B,C" categorizations, act as legal resource to run issues past, provide counsel and advice as the investigations are proceeding, provide training seminars to investigators and other County staff, and sit on the new panel to hear the presentation of investigations, vote on disposition and recommend disciplinary action (estimated annual cost \$191,000).
 - c. DHR – one half-time new position at the Human Resources Analyst IV level in Civil Service Advocacy (estimated annual cost \$90,000).
3. Hybrid Plus Approach – Option 3 would be to supplement the Option 2 hybrid approach by hiring two outside expert attorneys to serve on the panel along with DHR and County Counsel. One outside attorney would have expertise as a plaintiff's attorney and the other as a defense attorney. The additional cost is estimated to be \$300,000 (750 hours for each attorney) per year in addition to Option 2 costs, for a total of \$657,000 per year.
4. As Is – Option 4 is to keep operating "as is," but have OAAC absorb the minimal cost process improvements such as having OAAC begin investigations concurrently with mediation, reorganizing to create a specialized Intake Unit, and having existing staff do trend analysis, lessons learned and best practices as time permits.

Funding Recommendation

After reviewing the options and the costs, we recommend Option 3 at this time because the County would be able to implement most of the EOP practices and receive most of the benefits from the EOP approach, including the benefit of having outside legal experts who specializes in this area of law.

Preliminary Implementation Schedule

A number of process improvements have been identified which will help OAAC to become more effective, will leverage the work that OAAC does to benefit all County departments, and which should, over time, reduce the number of discrimination complaint incidents. Listed below is a general plan and timeframe to implement these changes:

OAAC improvements underway:

October 2010

- Notifying the Complaining Party in writing should the investigation extend beyond the stated time frame.
- Distributing an informational brochure regarding the voluntary Dispute Resolution Mediation program as an attachment to "Acknowledgement of Complaint" letters.
- Implementing a triage procedure to identify cases that pose a high risk to the County and which will be given priority status.
- Conducting investigations simultaneously with all cases electing dispute resolution.
- Digitally recording all complaining party, subject of investigation and witness interviews, and transcribing as necessary.

- Use of OAAC's new computer system to do:
 - Case trend analysis to identify problem areas for focus;
 - Provide management reports tied to workload and timeliness; and
 - Electronic workflow, templates and on-line review and approvals.
- OAAC will enhance the investigative reports to recommend what should be done to prevent similar incidents.

November 2010

- OAAC to reorganize staff to create a specialized Intake Unit.
- OAAC to implement the "A, B, C" intake classification model developed by the EOP.
- OAAC to work with Sheriff/EOP to set up a training class for OAAC investigators and discuss other options such as shadowing IA investigators to learn their techniques.
- CEO to prepare Board letter or Board motion to implement option selected by BOS.
- If funding is approved for outside attorneys to serve on a new EOP panel, OAAC/CEO to develop Request for Qualifications (RFQ) to seek two outside attorneys to serve on the oversight panel – one attorney with expertise working with plaintiffs and the other attorney with defendants.
- DHR/OAAC to begin development of County policy for use of the new oversight panel, including:
 - Review of Sheriff Manual of Policy and Procedures for the Policy of Equality
 - Development of disciplinary guidelines and written departmental justification for implementing discipline other than recommended by the panel (DHR)
 - Corrective Action Plans and requirement for departments to provide OAAC with written documentation of disciplinary action and corrective actions taken
 - Identification of potential problem areas and corrective actions through trend analysis (CEO Risk Management/OAAC)
 - Identification of best practices to be shared with departments and Legal Exposure Reduction Committee and to be incorporated into training

December 2010

- CEO, OAAC, County Counsel and DHR to review responses to RFQ for outside attorneys received, evaluated and selected
- DHR and County Counsel staff selected to serve on oversight panel
- OAAC and DHR to draft County policy on new oversight panel and share with EOP attorneys and departments for comment
- OAAC and DHR to develop Countywide Policy on Equality
- OAAC and DHR to develop training on Equality and related policies

January 2011

- Meetings with outside attorneys and County staff to serve on panel;
 - Meeting with EOP panel for briefing on how EOP panel operates
 - Meeting to establish how new panel will operate (mirroring EOP as much as possible), including review of draft County policy by outside attorneys, timeframe needed for panel to review OAAC investigation reports, etc.
 - Meeting calendar established

Each Supervisor
November 4, 2010
Page 13

- Countywide policy on new panel finalized and distributed along with information on regular oversight panel meeting dates
- OAAC and DHR to initiate mandatory training on equality and policies to all employees.
- OAAC to include best practices and lessons learned in the quarterly reports which are copied to all departments.
- OAAC to continue to share information through meetings with department heads, chief deputies, administrative deputies, human resources managers and risk managers.

February 2011

- New oversight panel begins hearing cases. Phased in approach for departments with highest need
 - Phase 1 - Probation, DCFS, DPSS
- OAAC will research additional innovative ways to communicate best practices, such as the Sheriff's Department use of "pop up" messages when computers are turned on each day.

April 2011

- Review and assess the implementation roll-out and add new departments based on program capacity
 - Phase 2 – DHS, DPH, DMH

July 2011

- Assess and review entire Equity Panel process and add remaining departments. Consider whether Sheriff's Equity Panel should remain separate or be merged into countywide process.

If you have any questions, please contact me or have your staff contact Ellen Sandt, Deputy Chief Executive Officer at (213) 974-1186 or esandt@ceo.lacounty.gov.

WTF:BC:EFS
GS:LG:ef

c: Executive Office, Board of Supervisors
Affirmative Action Compliance
County Counsel
Human Resources

Attachments: Comparison of EOP and OAAC Functions and
Investigation Timelines
EOP Costs
EOP Equity Program
OAAC Procedures, Practices and Policies

ATTACHMENT I

COMPARISON OF OAAC AND EOP TIMEFRAMES IN CALENDAR DAYS*

Activity	OAAC # of Days	EOP # of Days
Receive Complaint from Department or Charging Party	1	1
Complete Intake Assessment	16	5 to 30
Conduct Investigation, Draft Report, Management Review, Finalize Report	97 to 168	50 to 84
Submit Report to Department, Departmental Review and Response	27	n/a
EOP Panel Review/Findings/Disciplinary Recommendation	n/a	5 to 14
AVERAGE TIME SPENT PER CASE DURING 2009-10	154 day average	95 day average

* OAAC has historically tracked timeframes using business days, while EOP used calendar days. For purposes of this chart, the OAAC business days were converted to calendar days.

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
EQUITY STAFFING AND CONTRACTS
FISCAL YEAR: 2009-2010

DESCRIPTION	SERVICE TYPE or PURCHASE	EXPENDITURE
LASD Personnel	Staffing (Salaries & Employee Benefits)	\$3,037,000
Equity Oversight Panel Contracts	Contract Services	\$351,000
Office of Affirmative Action Compliance	Equity Investigation Services	\$736,000
GRAND TOTALS: FY 09/10		\$4,124,000

Note: Expenditures (07/01/09 to 06/30/10)

LASD Personnel:

Bureau of Labor Relations and
Compliance/Intake Specialist Unit

Captain	1
Commander	1
Lieutenant	1
Sergeant	3
Deputy	4
Operations Assistant I	1
Operations Assistant III	1
Intermediate Typist Clerk	1

Bureau of Internal Affairs/Equity
Investigations Unit

Lieutenant	1
Sergeant	5

Equity Oversight panel Contracts

Three EOP Members and a Chairperson

Office of Affirmative Action Compliance

Services provided at the Intake Unit